



[4830-01-p]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for the Annual Return/Report of Employee Benefit Plan

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)).

Currently, the IRS is soliciting comments concerning the Annual Return/Report of Employee Benefit Plan.

DATES: Written comments should be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER] to be assured of consideration.

ADDRESSES: Direct all written comments to Christie Preston, Internal Revenue Service, Room 6129, 1111 Constitution Avenue N.W., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the forms and instructions should be directed to R. Joseph Durbala at Internal Revenue Service, Room 6129, 1111 Constitution Avenue N.W., Washington, DC 20224, or through the internet at RJoseph.Durbala@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Annual Return/Report of Employee Benefit Plan.

OMB Number: 1545-1610.

Form Number: 5500 and Schedules

Abstract: The Annual Return/Report of Employee Benefit Plan is an annual information return filed by employee benefit plans. The IRS uses this information to determine if the plan appears to be operating properly as required under the law or whether the plan should be audited.

Current Actions: PBGC, the Department of Labor (DOL), and the Internal Revenue Service (IRS) work together to produce the Form 5500 Annual Return/Report for Employee Benefit Plan and Form 5500-SF Short Form Annual Return/Report for Small Employee Benefit Plan (Form 5500 Series), through which the regulated public can satisfy the combined reporting/filing requirements applicable to employee benefit plans.

The IRS Changes For PY 2015 Form 5500s				
	Suggested Changes	Add to	Authorities	Compliance and Use For
	I. General			
1	<u>Trust information:</u> Name of trust Trust's EIN Name of trustee or custodian Trustee or custodian's telephone number	Form 5500, Schedule H/I, Forms 5500-SF, and 5500-Sup	IRC § 6058(a), 401(a), 501(a) Similar questions were previously on Schedule P	<ul style="list-style-type: none"> Trust information used to be in Schedule P, and was added to the 2012 Form 5500 as optional items. Trust information will be mandatory items for the plan year beginning in 2015. Information will be used for EP Exam and EPCU programs. The trust and trustee are subject to a number of requirements for which the agencies have shared jurisdiction. Collecting Trust/Trustee information will enable the agencies to efficiently monitor compliance.

The IRS Changes For PY 2015 Form 5500s				
	Suggested Changes	Add to	Authorities	Compliance and Use For
	I. General			
1	<u>Trust information:</u> Name of trust Trust's EIN Name of trustee or custodian Trustee or custodian's telephone number	Form 5500, Schedule H/I, Forms 5500-SF, and 5500-Sup	IRC § 6058(a), 401(a), 501(a) Similar questions were previously on Schedule P	<ul style="list-style-type: none"> Trust information used to be in Schedule P, and was added to the 2012 Form 5500 as optional items. Trust information will be mandatory items for the plan year beginning in 2015. Information will be used for EP Exam and EPCU programs. The trust and trustee are subject to a number of requirements for which the agencies have shared jurisdiction. Collecting Trust/Trustee information will enable the agencies to efficiently monitor compliance.

The IRS Changes For PY 2015 Form 5500s

	Suggested Changes	Add to	Authorities	Compliance and Use For
2	<p><u>Preparer Information:</u></p> <p>Preparer's name (including firm name, if applicable) Preparer address (include room or suite number) Preparer's telephone number</p>	Forms 5500, 5500-SF, and 5500-Sup	IRC §§ 6058(a) 7701(a)(36), 6109, 6695, § 1.6109 Similar questions were on 2008 and previous years Form 5500.	<ul style="list-style-type: none"> Optional preparer information was eliminated from Form 5500 since 2009 and added back in the 2012 Form 5500s. Preparer information will be mandatory items for the plan year beginning in 2015. EP Exam needs at least basic information of preparers, so that Exam can contact preparers for issues relating to Form 5500s and plan qualifications. It will assist IRS and DOL for projects relating to tax compliance and fiduciary duties.
5	<p><u>Plan document and qualification</u></p> <p>Has the Plan been timely amended for all required tax law changes? Check box <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Date of the last Plan amendment/ restatement for the required tax law change was adopted __/__/__.</p> <p>If the Employer is an adopter of a pre-approved master and prototype (M&P), or volume submitter plan that is subject to IRS favorable opinion or advisory letter, enter the date of that letter __/__/__ and a letter serial number _____.</p> <p>If the plan is an individually-designed plan and received a favorable determination letter from IRS, please enter the date of Plan's last favorable determination letter __/__/__.</p>	Schedule R, Forms 5500-SF and 5500-Sup	IRC §§6058(a) 401(a)	<ul style="list-style-type: none"> Used for pre-planning to determine Remedial amendment cycle (RAC) and remedial amendment period (RAP). The initial exam letter can be tailored to respective required adoption dates under Rev. Proc. 2007-44. Provide information on how many adopters of the pre-approved plans are in existence that is helpful for future EPCU projects or follow-ups we may want.
	<p><u>UBIT</u></p> <p>Did the plan trust incur unrelated business taxable income? Check box <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A If Yes, Amount _____</p>	Schedule H/I, Forms 5500-SF and 5500-Sup	IRC §§6058(a), 511 and 512	It will assist IRS for purpose of tax compliance to identify 401(a) trust on unrelated business income, which comes from an activity not related to the tax-exempt purpose of that trust.

The IRS Changes For PY 2015 Form 5500s

	Suggested Changes	Add to	Authorities	Compliance and Use For
	II. ESOP			
9	<p>Is the plan an ESOP that received dividends on employer stock that were tax-deductible under section 404(k)?</p> <p>Check box <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If "yes":</p> <p>(i) What was the total dividend amount?</p> <p>_____</p> <p>(ii) What was the dividend rate? _____</p> <p>(iii) Were any dividends, payments in redemption of stock?</p> <p>Check box <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	Schedule R, Form 5500-Sup	IRC §§6047(e) 409(p), 4975	<ul style="list-style-type: none"> This information is buried in the other deductions section of the taxpayer's 1120. The dollar amount of the deduction would help in classifying the return for Examinations and EPCU projects targeting potential tax abusers. Both (b) and (c) are taken from previous Schedule E. For (b), an unreasonable dividend violates § 404(k). This information would allow us to target potential tax abusers. (c) is the issue, which we are winning in the courts and need to pursue.
10	<p>Is the plan a section 401(k) plan:</p> <p>Check box <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If "yes," how does the plan satisfy the nondiscrimination requirements for employee deferrals and employer matching contributions (as applicable) under sections 401(k)(3) and 402(m)(2)?</p> <p>Check box</p> <p><input type="checkbox"/> Design-based safe harbor method</p> <p><input type="checkbox"/> ADP/ACP test</p> <p>If ADP/ACP test is used, did the plan perform ADP/ACP testing for the plan year using the "current year testing method" for nonhighly compensated employees (Treas. Reg. section 1.401(k)-2(a)(2)(iii))?</p> <p>Check box <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	Schedule R, Forms 5500-SF, and 5500-Sup	IRC §§6058(a) 401(k), 401(m).	<ul style="list-style-type: none"> It will assist IRS agents in performing pre-audit analysis and request the appropriate information when preparing the initial IDR. Used for compliance reasons because of different rules applied for safe harbor plans. Failure to meet requirements results in disqualification of plan which may be corrected under Rev. Proc. 2013-12
	IV. Nondiscrimination & Coverage			
12	<p>Check the box to indicate the method used by the plan to satisfy the coverage requirements under section 410(b):</p> <p><input type="checkbox"/> ratio percentage test</p> <p><input type="checkbox"/> average benefit test</p> <p>Does the plan satisfy the coverage and</p>	Schedule R, Forms 5500-SF, and 5500-Sup	IRC §§6058(a) 401(a)(4), 410(b)	<ul style="list-style-type: none"> Because of changes on Determination letter program that eliminated the option to request a determination on coverage and nondiscrimination, proposal will assist IRS agents in performing pre-audit analysis and will enable agents to request the appropriate information when preparing the

The IRS Changes For PY 2015 Form 5500s

	Suggested Changes	Add to	Authorities	Compliance and Use For
	nondiscrimination tests of sections 410(b) and 401(a)(4) by combining this plan with any other plans under the permissive aggregation rules? Check box <input type="checkbox"/> Yes <input type="checkbox"/> No			initial IDR. <ul style="list-style-type: none"> • Would provide criteria to enable Classification Specialists and EP Analysts to perform more precise return/issue selections • Compliance with respect to contributions/benefits and coverage • Encourages development/use of internal controls (for testing and aggregation rules) • VCP available under Rev. Proc. 2013-12 for failures which should be identified by sponsor earlier
	V. Distributions			
	VI. International			
15	Is the Plan maintained in a U.S. territory (i.e., Puerto Rico (if no election under ERISA section 1022(i)(2) has been made), American Samoa, Guam, the Commonwealth of the Northern Mariana Islands or the U.S. Virgin Islands)? Yes__ No__	Schedule R, Forms 5500-SF and 5500-Sup	IRC §§ 6058(a) 401(a).	<ul style="list-style-type: none"> • Proposal will assist IRS agents in performing pre-audit analysis and make accurate selections for international audits. • This is a category of US Territory plans that are all tax qualified but are not otherwise identifiable. Current plan characteristic code 3J applies only to dual-qualified U.S.-based plans covering Puerto Rico residents; code 3C (plan not intended to qualify) includes plans exempt under Puerto Rico law (not US law) and limited to Puerto Rico residents, where the 1122(i)(2) election for dual qualification has not been made. • The proposal would better meet compliance objectives by addressing issues identified by the international compliance group.

The aforementioned changes will generate and increase in burden by 21,000 hours and increase the estimated number of responses by 36,000 per year. Form 5500-SUP is a paper-only form filed with the IRS that is used by the sponsors and administrators of retirement plans to satisfy the reporting requirements of section 6058. Form 5500-SUP should only be used if certain IRS compliance questions are not answered electronically on the Form

5500 or Form 5500-SF. The creation of Form 5500-SUP, may create a new paper filing requirement. The paper submission of this form will increase the estimated number of responses by 500 and the estimated annual burden by 7,140 hours.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals and households, not-for profit institutions, and farms.

Estimated Number of Respondents: 822,500.

Estimated Time Per Respondent: 25 minutes.

Estimated Total Annual Burden Hours: 347,140.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the

functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: December 15, 2014.

**R. Joseph Durbala,
IRS, Tax Analyst.**

**[FR Doc. 2014-29939 Filed 12/22/2014 at 8:45 am; Publication
Date: 12/23/2014]**